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8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 State of California,

12 Plaintiff,

13 v.

14 Azuma Corporation, et al.,

15 Defendants.
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No. 2:23-cv-00743-KJM-DB

ORDER

17 Defendants Azuma Corporation, Phillip Del Rosa, Darren Rose and Wendy Del Rosa
18 move for administrative relief to link the briefing and hearing schedules on plaintiff's motion for
19 preliminary injunction and defendants' forthcoming motion under Federal Rule of Civil
20 Procedure 12(b). Mot., ECF No. 14. They argue the two motions concern the same issues and
21 are likely immediately appealable; they note they will seek dismissal for lack of subject matter
22 jurisdiction. *Id.* at 2. As a result, they conclude the two motions should be briefed and heard
23 together, and because the parties have already agreed the Rule 12(b) motion should be filed on
24 July 17, 2023, they argue their opposition to the motion for preliminary injunction should be
25 deferred to that date as well, *id.* at 3. Plaintiff State of California opposes this motion. Opp'n,
26 ECF No. 16. It argues there is no reason to delay a ruling on whether to enjoin defendants from
27 continuing to violate federal and state law. Opp'n at 3. For the following reasons, the court
28 **denies** defendants' motion.

1 First, although defendants raise several apparently dispositive issues related to this case,
2 including the court's subject matter jurisdiction, *see* Mot. at 2–3, defendants may raise any or all
3 of these issues in opposition to plaintiff's motion for preliminary injunction. They may argue the
4 court is without jurisdiction or that *Ex parte Young* does not apply here. *See id.* Defendants have
5 not explained how responding to the motion for preliminary injunction now would forfeit these
6 arguments. Relatedly, defendants have not explained why, therefore, it is necessary to delay
7 resolution of the motion for injunctive relief until October 13, 2023.

8 Second, under Local Rule 230, a party may file a counter-motion "that is related to the
9 general subject matter of the original motion," and if necessary, "the Court may continue the
10 hearing on the original and all related motions so as to give all parties reasonable opportunity to
11 serve and file oppositions and replies to all pending motions." E.D. Cal. L.R. 230(e). As a result,
12 defendants may file their anticipated Rule 12(b) motion in response to plaintiff's motion for
13 injunctive relief. If the parties need more time to adequately brief these issues, then they may
14 request it at that time. Moreover, if defendants need more time to prepare their opposition and
15 counter-motion, then they may request it accordingly. But the court will not delay resolution of
16 the pending motion for injunctive relief as requested, until October 13, 2023, solely on the basis
17 that defendants intend to file a Rule 12(b) motion in a month's time.

18 In sum, the court **denies** defendants' motion.

19 This order resolves ECF No. 14.

20 IT IS SO ORDERED.

21 DATED: June 22, 2023.


CHIEF UNITED STATES DISTRICT JUDGE